

Office of the Secretary, Interior

§ 4.420

represented the Bureau of Land Management or the Minerals Management Service at the hearing or, in the absence of a hearing, who was served with a copy of the decision by the administrative law judge. If the hearing involved a mining claim on national forest land, the appellant shall serve the attorney from the Office of General Counsel, U.S. Department of Agriculture, who represented the U.S. Forest Service at the hearing or, in the absence of a hearing, who was served with a copy of the decision by the administrative law judge.

(4) Parties shall serve the Office of the Solicitor as identified in this paragraph until such time that a particular attorney of the Office of the Solicitor files and serves a Notice of Appearance or Substitution of Counsel. Thereafter, parties shall serve the Office of the Solicitor as indicated by the Notice of Appearance or Substitution of Counsel.

(d) Proof of such service as required by § 4.401(c) must be filed with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, VA 22203), within 15 days after service unless filed with the notice of appeal.

[53 FR 13267, Apr. 22, 1988, as amended at 60 FR 58242, Nov. 27, 1995; 61 FR 40348, Aug. 2, 1996; 67 FR 4368, Jan. 30, 2002]

§ 4.414 Answers.

If any party served with a notice of appeal wishes to participate in the proceedings on appeal, he must file an answer within 30 days after service on him of the notice of appeal or statement of reasons where such statement was not included in the notice of appeal. If additional reasons, written arguments, or briefs are filed by the appellant, the adverse party shall have 30 days after service thereof on him within which to answer them. The answer must state the reasons why the answerer thinks the appeal should not be sustained. Answers must be filed with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, VA 22203) and must be served on the appellant, in the manner prescribed in § 4.401(c), not later than 15 days thereafter. Proof of such service as required by § 4.401(c), must be filed with the

Board (see address above) within 15 days after service. Failure to answer will not result in a default. If an answer is not filed and served within the time required, it may be disregarded in deciding the appeal, unless the delay in filing is waived as provided in § 4.401(a).

[36 FR 7186, Apr. 15 1971, as amended at 67 FR 4368, Jan. 30, 2002]

ACTIONS BY BOARD OF LAND APPEALS

§ 4.415 Request for hearings on appeals involving questions of fact.

Either an appellant or an adverse party may, if he desires a hearing to present evidence on an issue of fact, request that the case be assigned to an administrative law judge for such a hearing. Such a request must be made in writing and filed with the Board within 30 days after answer is due and a copy of the request should be served on the opposing party in the case. The allowance of a request for hearing is within the discretion of the Board, and the Board may, on its own motion, refer any case to an administrative law judge for a hearing on an issue of fact. If a hearing is ordered, the Board will specify the issues upon which the hearing is to be held and the hearing will be held in accordance with §§ 4.430 to 4.439, and the general rules in subpart B of this part.

§ 4.416 Appeals of wildfire management decisions.

The Board must decide appeals from decisions under § 4190.1 and § 5003.1(b) of this title within 60 days after all pleadings have been filed, and within 180 days after the appeal was filed.

[68 FR 33803, June 5, 2003]

HEARINGS PROCEDURES

Hearings procedures; general

§ 4.420 Applicability of general rules.

To the extent they are not inconsistent with these special rules, the general rules of the Office of Hearings and Appeals in subpart B of this part are also applicable to hearings, procedures.